

**DISTRICT OF COLUMBIA**  
**DOH Office of Adjudication and Hearings**  
825 North Capitol Street N.E., Suite 5100  
Washington D.C. 20002

DISTRICT OF COLUMBIA  
DEPARTMENT OF HEALTH  
Petitioner,

v.

RICARDO QUINTANILLA and  
MARTA LEDESMA  
Respondents

Case Nos.: I-00-70117  
I-00-70104

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**FINAL ORDER**

**I. Introduction**

This case arises under the Civil Infractions Act of 1985 (D.C. Code §§ 6-2701 *et seq.*) and Title 21, Chapter 7 of the District of Columbia Municipal Regulations (“DCMR”). By Notice of Infraction (No. 00-70117) served on May 9, 2001, the Government charged Respondents Ricardo Quintanilla and Marta Ledesma with violating 21 DCMR 700.3 for allegedly failing to properly containerize solid waste.<sup>1</sup> The Notice of Infraction alleged that the violation occurred on May 7, 2001 at Respondents’ apartment building located at 2515 17<sup>th</sup> Street, N.W. and sought a fine of \$1,000.00.

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<sup>1</sup> 21 DCMR 700.3 provides: “All solid wastes shall be stored and containerized for collection in a manner that will not provide food, harborage, or breeding places for insects or rodents, or create a nuisance or fire hazard.”

Respondents failed to reply to the first Notice of Infraction within the allotted twenty (20) days (fifteen days plus five days for mailing pursuant to D.C. Code §§ 6-2712(e), 6-2715). Accordingly, on June 12, 2001, this administrative court issued an order finding Respondents in default for failing to timely answer the first Notice of Infraction, assessing a statutory penalty in the amount of \$1,000.00 pursuant to D.C. Code § 6-2704(a)(2)(A), and directing the Government to issue a second Notice of Infraction in accordance with D.C. Code § 6-2712(f). The Government served the second Notice of Infraction (No. 00-70104) on June 22, 2001.

On June 22, 2001, this administrative court received Respondents' untimely plea of Admit with Explanation, along with a request for a reduction or suspension of any assessed fine or statutory penalty. As part of their explanation, Respondents asserted that, because the first Notice of Infraction had been served to their apartment building instead of their home, they had not received notice of the infraction until June 18, 2001.<sup>2</sup> Respondents explained that "people from the street come and throw boxes and other trash" and that they did not have "any mice or any infestation." Finally, Respondents asserted that they "were trying to solve the problem" with the trash, although they did not specify what actions had been taken in this regard.

On July 26, 2001, this administrative court issued an order permitting the Government to respond to Respondents' submission within ten (10) calendar days of the service date of the order. Because no response has been received from the Government within the allotted time, this matter is now ripe for adjudication.

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<sup>2</sup> Respondents requested that any future notice in the case be sent to their home at 3666 New Hampshire Avenue, N.W.

## **II. Findings of Fact**

1. By their plea of Admit with Explanation, Respondents have admitted violating 21 DCMR 700.3 on May 7, 2001 at 2515 17<sup>th</sup> Street, N.W.
2. On May 7, 2001, Respondents failed to store and containerize for collection all solid waste in a manner that would not “provide food, harborage, or breeding places for insects or rodents, or create a nuisance or fire hazard.” 21 DCMR 700.3.
3. The Government served the first Notice of Infraction upon Respondents on May 9, 2001 using the apartment building’s address of 2515 17<sup>th</sup> Street, N.W. Respondents first became aware of the Notice of Infraction on June 18, 2001.
4. Respondents’ last known business address for the apartment building is 2515 17<sup>th</sup> Street, N.W. Respondents’ home address is 3666 New Hampshire Avenue, N.W.
5. Respondents assert that, despite their efforts to keep the trash area clean, there is unauthorized dumping of boxes and other trash on their property.
6. There is no evidence in the record that Respondents have a history of non-compliance.

## **III. Conclusions of Law**

1. Respondents violated 21 DCMR 700.3 on May 7, 2001. A fine of \$1,000.00 is authorized for that violation. 16 DCMR 3216.1(a).

2. Respondents have requested a reduction or suspension of any imposed fine or penalty. The Government has not responded to Respondents' request. Although Respondents have entered a plea of Admit with Explanation, they have largely deflected all responsibility for the violation to trespassing neighbors. *Cf.* U.S.S.G. § 3E1.1 (acceptance of responsibility as mitigating sentencing factor). *See DOH v. Steininger*, OAH No. I-00-70114 at 5-6 (Final Order, July 27, 2001). In light of Respondents' uncontroverted efforts to maintain the area around their dumpster and the lack of evidence in the record of a history of their non-compliance, however, this administrative court concludes that a reduction of the fine is appropriate in this case. Accordingly, the fine is reduced to \$650.00. *See* D.C. Code §§ 6-2712(a)(2), 6-2703(b)(6).
3. As to the statutory penalty, pursuant to D.C. Code § 6-2712(f), if a respondent has been duly served a notice of infraction and fails, without good cause, to answer it within the allotted time period, the respondent is liable for a statutory penalty in the amount of the fine. *See* D.C. Code §§ 6-2712(f), 6-2704(a)(2)(A). In this case, the Government certified that on May 9, 2001 it mailed the first Notice of Infraction to Respondents' apartment building. Respondents assert that they did not receive the notice until June 18, 2001 because it had not been sent to their home. There is nothing in the record to explain, however, the month-long delay in Respondents' receipt of correspondence that was in their names and was mailed to their apartment building.
4. Based on this record, I conclude that Respondents had adequate notice of the charges against them for purposes of the Due Process Clause and the Civil Infractions Act of

1985. Service of the Notices of Infraction by mail to Respondents' last known business address for the apartment building, *i.e.*, 2515 17<sup>th</sup> Street, N.W., is sufficient notice. *See Mennonite Board of Missions v. Adams*, 462 U.S. 791, 800 (1983); *McCaskill v. District of Columbia Dep't of Employment Servs.*, 572 A.2d 443, 445 (D.C. 1990); *Carroll v. District of Columbia Dep't of Employment Servs.*, 487 A.2d 622, 624 (D.C. 1985); D.C. Code § 6-2715. As a result, the Government was not also required to serve the Notice of Infraction upon Respondents at their home address.
5. Given my determination of the sufficiency of the Government's service, I conclude that Respondents have not demonstrated on this record good cause for failing to timely answer the first Notice of Infraction. Accordingly, Respondents are liable for a statutory penalty in the amount of \$1,000.00. *See* D.C. Code § 6-2704(a)(2)(A).

#### IV. Order

It is, therefore, upon the entire record in this matter, this \_\_\_\_ day of \_\_\_\_\_, 2001:

**ORDERED**, that Respondents shall jointly pay a total of **ONE THOUSAND SIX HUNDRED FIFTY DOLLARS (\$1,650.00)** in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Code § 6-2715); and it is further

**ORDERED**, that, if Respondents fail to pay the above amount in full within twenty (20) calendar days of the date of mailing of this Order, by law, interest must accrue on the unpaid

amount at the rate of 1 ½% per month or portion thereof, beginning with the date of this Order. D.C. Code § 6-2713(i)(1), as amended by the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000, D.C. Law 13-281, effective April 27, 2001; and it is further

**ORDERED**, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondents' licenses or permits pursuant to D.C. Code § 6-2713(f), the placement of a lien on real and personal property owned by Respondents pursuant to D.C. Code § 6-2713(i), and the sealing of Respondents' business premises or work sites pursuant to D.C. Code § 6-2703(b)(6).

/s/      **8/27/01**

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Mark D. Poindexter  
Administrative Judge